



VOLUME 6: HEALTH INFORMATION MANAGEMENT	Effective Date: 01/2002
CHAPTER 4	Revision Date: 08/2016
6.4.2 RELEASE OF INFORMATION PROCEDURE	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

I. PROCEDURE OVERVIEW

California Correctional Health Care Services (CCHCS) Health Information Management and Health Records shall ensure all legal requirements providing privacy protections to patients are followed.

II. RESPONSIBILITIES

- A. The Chief Executive Officer, Chief Medical Executive, and Warden are responsible for establishing and maintaining a dedicated telephone Release of Information (ROI) Access Line or extension at each institution.
- B. Institution Health Records and Health Record Center staff shall collaborate with the Litigation Coordinators at each institution to ensure proper delivery and handling of all legal requests for Protected Health Information.
- C. Health Records staff at institutions (for currently incarcerated inmates), and Health Record Center staff (for paroled and discharged inmates) are responsible for processing all other requests for health information.

III. PROCEDURE

A. General Requirements: Authorization for Release of Information

- 1. A patient's (or his/her personal representative's) authorization is considered valid if it contains at least the following elements:
 - a. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
 - b. The name or other specific identification of the persons(s) authorized to make the requested use or disclosure.
 - c. The name or other specific identification of the person(s) to whom CCHCS may make the requested use or disclosure.
 - d. A description of each purpose of the requested use or disclosure and the specific uses and limitations on the use of the health information by the persons or entities authorized to receive it. The statement "at the request of the individual" is a sufficient description of the purpose when a patient initiates the authorization and does not, or elects not to, provide a statement of the purpose.
 - e. An expiration date or an expiration event (e.g., conclusion of litigation, completion of surgery) that relates to the individual or the purpose of the use or disclosure after which disclosure is no longer authorized.
 - f. A signature which serves no other purpose than to execute the document and date. If the authorization is signed by a personal representative of the patient, a description of such representative's authority to act for the individual must also be provided.

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3. Follow instructions contained in the CDCR Office of Legal Affairs Subpoena Manual.

D. Family and/or Friend Access Line

1. The Chief Executive Officer or designee shall work with the Warden to establish a dedicated telephone ROI Access Line or extension at each institution. The line is for the use of an authorized family member, friend, or legal representative of the patient to request health care information relating to a significant change in the patient's health care condition or status.
2. All verbal requests for health care information shall be referred to the ROI Access Line at headquarters or the local institution.

E. Confidential Information

The following extra confidential information requires special handling. A CDCR 7385 from the patient, a court order, or a search warrant specifically requesting the information is required for disclosure of:

1. Mental health records.
2. Psychotherapy notes.
3. Substance abuse / alcohol treatment records.
4. Substance abuse treatment program records are provided by a contracted service. The Litigation Coordinator is responsible for obtaining these records.
5. Genetic testing.
6. Communicable diseases.

F. Patient Access to Personal Health Information

1. The patient shall complete a CDCR 7385.
2. Staff shall review the CDCR 7385 and correspond with the patient to identify the specific documents needed.
3. The ROI request is entered into the ROI tracking mechanism.
4. The patient must be notified of the acceptance of the request and provided the records within 15 calendar days.
5. The requested documents are printed/copied from the health record.
6. The patient is notified of delivery of records for review.
 - a. If the patient is requesting any and all documents, documents shall be printed from the health record for review at no charge.
 - b. If the patient is requesting specific document(s):
 - 1) Documents shall be printed from the health record.
 - 2) If the patient is provided selected documents, \$.10 per copy shall be charged from his/her Trust Account. Copies shall be made available to an indigent patient at no charge.

G. Patient Access to Mental Health Information

1. The patient shall complete a CDCR 7385.
2. Staff shall review the CDCR 7385 and correspond with the patient to identify the specific documents needed.
3. The ROI request is entered into the ROI tracking mechanism.
4. If the patient's written request is to review his/her mental health records, authorization of the Chief of Mental Health or attending mental health provider shall be obtained.
5. The Chief of Mental Health or attending mental health provider may deny a request to review mental health records if there is a substantial risk of significant adverse or

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- detrimental consequences to the patient in seeing or receiving a copy of the mental health records requested by the patient.
- a. Where a patient requests information be sent to his/her legal representative for term fixing or parole granting purposes, access to records may only be denied if disclosure would create an undue risk of harm to the security of the institution or others.
6. If the provider grants access to the mental health records in whole or in part the patient must be notified of the acceptance of the request and provided the records within 15 calendar days.
 7. If the provider denies access to the mental health records:
 - a. The patient must be informed of the denial within 30 calendar days, and will only be denied access to the information for which the provider has a basis to deny access. The denial must contain:
 - 1) The basis of the denial.
 - 2) A description of how the patient may complain to CCHCS or to the Secretary of Health and Human Services. Complaints to CCHCS shall be to the local institutional Appeals Office through the regular appeals process, and the denial shall include the contact information for the institutional Appeals Office, including the office title and address for receipt of appeals.
 - b. Health Records staff shall proceed immediately to obtain a written statement from the attending clinician to be added to the patient's health record explaining the reason for denial. The statement shall:
 - 1) Explain why access to this information is harmful to the patient or to the patient-therapist relationship.
 - 2) State how access is to be granted, e.g., to a licensed mental health provider or to a social worker selected by the patient.
 - c. Notify the patient that access will be granted to a licensed mental health provider or to a social worker of his/her choice.
 - d. Request the patient to notify Health Records staff of the appropriate person to access his/her information.
 8. If the request is for records that are needed to support an appeal regarding eligibility for a public benefit program (e.g., Medi-Cal program, Social Security Disability Insurance benefits, or Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits), the following applies:
 - a. The patient or his/her representative shall be entitled to one copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal. These copies shall be transmitted within 30 days after receiving the written request.
 - b. "Relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.
 - c. Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his/her record free of charge.

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- d. This process shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal. "Private attorney" means any attorney not employed by a nonprofit legal services entity.

IV. REFERENCES

- Code of Federal Regulations, Title 42 (Part 2), Confidentiality of Alcohol and Drug Abuse Patient Records, Sections 2.1-2.67
- Code of Federal Regulations, Title 45, Section 164.501, Definitions
- Health Insurance Portability and Accountability Act of 1996
- California Code of Regulations, Title 22, Section 79803 Health Record Service, and Section 79807, Patient Health Record Availability
- California Civil Code, Section 56.1007 and Section 2029
- California Civil Code, Section 56-56.07, California Confidentiality of Medical Information Act
- California Health and Safety Code 123115(b)
- California Health and Safety Code 123115(b)(3)
- California Welfare and Institutions Code, Division 5, Part 1, Sections 5000-5121, Lanterman-Petris-Short Act
- California Hospital Association Consent Manual, 2010, Chapters 15, 16, and 17
- Department of Health and Human Services, Section 164.520, Notice of Privacy Practices for Protected Health Information
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 13, Privacy
- California Department of Corrections and Rehabilitation, Office of Legal Affairs Subpoena Manual